



FREEDOM OF INFORMATION AND PRIVACY ACTS

SUBJECT: Roy M. Cohn

FILE NUMBER: 58-5100

PART: 17 of 23



FEDERAL BUREAU OF INVESTIGATION

SUBJECT Roy M. Cohn -
FILE NUMBER 58 - 5100
~~SECTION NUMBER~~ 405 Enclosure
Behind
File

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58-5100-105 Enclosure

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W830

MR. RAICHLE: Mr. Nichols.

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LOUIS B. NICHOLS, called as a witness by defendant Cohn, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. RAICHLE:

Q Where do you reside, Mr. Nichols?

A My legal residence is Leedsburg, Virginia. My New York address is 60 West 57th Street.

Q And what is your present occupation?

A I am executive vice-president of Schenley Industries.

Q And how long have you been the executive vice-president of Schenley Industries?

A Since December of 1957.

Q For the benefit of some of us who may be a little naive, what is the business of Schenley?

A Well, Schenley is an integrated business that has about 12 different phases to it. It's probably best known because of its liquor divisions.

Q I see. Now, then, prior to the time that you became the executive vice-president of Schenley,

what was your occupation?

A I was associated with the Federal Bureau of Investigation.

Q And prior to the time you were associated with the Federal Bureau of Investigation, what was your education and training?

A When I graduated from George Washington University Law School after taking the Bar examination, I was appointed a special agent of the FBI.

Q And who appointed you?

A Well, naturally, all appointments were made by Mr. J. Edgar Hoover, its director.

Q You are a lawyer?

A Yes, I am a member of the D.C. Bar.

Q District of Columbia Bar?

A Yes.

Q After Mr. J. Edgar Hoover appointed you as special agent of the Federal Bureau of Investigation, or the FBI, what positions did you hold with the FBI?

A Well, I have held the position of special agent, special agent in charge, inspector, assistant director and assistant to the director.

Q The director, of course, is Mr. J. Edgar

Hoover?

A That is correct.

Q And who appointed you to these various posts?

A Mr. Hoover.

Q Is the assistant to the director, the second man in the hierarchy?

A No, in the hierarchy you have the director, the associate director and two assistants to the director, one on the investigative side and one on the administrative side.

Q Which side were you on?

A I was on the administrative side.

Q I see. Now, then, first I will ask you this:

Do you know the defendant Roy Cohn?

A Yes, sir.

Q And how long have you known the defendant Roy Cohn?

A Well, I knew of him when he was appointed an Assistant U. S. Attorney here in New York. I did not get to know him personally until he came to Washington as a Special Assistant to the Attorney General.

Q The Attorney General of the United States?

A That's correct.

Q Did you and Mr. Hoover have occasion to observe his work and work with him?

MR. WALPIN: Objection, your Honor.

THE COURT: I don't think you need to bring in Mr. Hoover on that.

Ask the witness if he had occasion.

A I certainly did.

THE COURT: All right.

Q And do you know many people who know the defendant Roy Cohn?

A Oh, yes, he is very well known.

Q And people in various walks of life?

A That is correct.

Q Do you know his reputation for truth and veracity, honesty?

A Yes, sir, it is very good.

Q Now, then, do you know a man named William B. Fugazy?

A I do.

Q What is the nature of your acquaintance with him?

A I met Mr. Fugazy on a social basis shortly after I came to New York, and subsequently I had considerable business relations with him.

Q How did those business relations come about?

A They came about because in Schenley Industries our people do considerable travel and we let the Fugazy Agency put a man in the company to handle the travel bookings and the hotel reservations and the like.

Q You have an acquaintanceship of some several years' standing with Mr. Fugazy?

A Yes, sir.

Q Does he do the travel work? Is that relationship which you described continuing?

A No, sir, it is not. We discontinued the set-up. The decision was made to do it in the early spring of 1963 and we have our own traffic engineer. After all, we were doing business with a lot of our customers and the customers resented paying the seven per cent to a travel agency, and the customer must always be right.

THE COURT: You do it yourself now?

THE WITNESS: Yes, we do.

Q Did there come a time when you had a conversation with Mr. Fugazy on the subject of a grand jury investigation in the year 1962 -- or, if I am wrong about the date, tell me when it was?

A Well, I had three distinct conversations beginning in the early summer of 1962.

Q Will you tell us about the first conversation.

A The first conversation occurred when Bill called me.

Q By "Bill" you mean --

A Bill Fugazy -- and he expressed concern over the manner in which an FBI agent had interviewed one of his employees and he quoted the FBI agent as having told the employee that Mr. Cohn was in bad trouble and he didn't think that was right.

I told Mr. Fugazy that I seriously --

MR. WALPIN: May we know who the "he" is, the FBI agent?

THE COURT: I take it, Mr. Nichols, that this is a conversation that you had with Mr. Fugazy?

GJ-3

Nichols-direct

THE WITNESS: That is correct.

THE COURT: When you say "he," that is
Fugazy?

THE WITNESS: That is correct.

A (Continuing) I told Mr. Fugazy that I did not believe that the FBI agent made any such statement. It was contrary to the operating practices of the FBI and I was certain that he had a garbled account.

The second occasion that I had a discussion with Mr. Fugazy was in the mid-summer of 1962 and on this occasion Mr. Fugazy called me. He was somewhat disturbed. The FBI had requested that he come to the office for an interview. He related that friends of his had advised him not to go for the interview unless he was accompanied by counsel and he asked my advice.

I asked if he knew the purpose of the interview. He stated that they wanted to interview him about Mr. Cohn.

I asked him if he had been involved in anything improper. He replied in the negative.

I then inquired if he had any knowledge of Mr. Cohn's involvement in anything improper and he

gJ-4

Nichols-direct

replied in the negative.

Q When you say "in the negative," what did he say?

A He said no, that he was not involved, nor was Mr. Cohn involved.

I then told him that I thought he should go to the FBI, that he should be interviewed; that the FBI would respect his rights and would treat him properly.

He subsequently called me back, stated he was very happy that I had so advised him, that he had gone to the Bureau and the FBI agents had treated him very properly.

Q Did you have a third conversation?

A On the third occasion Mr. Fugazy came to my office.

Q Can you fix the time, approximately?

A I have refreshed my recollection. It was on August 28, 1962, and it was after five o'clock in the evening. Bill related to me -- Bill Fugazy, that is -- that he had been before the grand jury; that he had given the grand jury the best information that he could and had answered the questions truthfully; that since his appearance

before the grand jury he had refreshed his recollection on certain other matters and that he wondered what he should do.

I inquired of him as to whether these matters on which he had refreshed his recollection were directly related to his testimony.

He stated that they were not. I told him that he would be in the best position to judge.

He then asked me for advice. I told him that he had two alternatives: He could go to the Assistant United States Attorney who handled the grand jury and discuss with him the matters that he had refreshed his recollection on; or, secondly, he could call the FBI agent who had talked to him and go to the FBI agent and relate these matters to him.

He then asked me what my advice would be. I told him that since the information might require investigation he would probably save a lot of time and it would be preferable for him to go directly to the FBI.

He stated that he would give this consideration. I do not know whether he went to the FBI or not.

Following this discussion I then asked him as to what they were doing down there.

Q "They" being whom?

A Meaning the grand jury.

Mr. Fugazy said, "They are trying to get Roy," and I said, "Well, how can they get Roy through you if you have no knowledge of any wrong-doing on the part of Roy and if you are not involved in any wrong-doing?"

2 Mr. Fugazy then replied that "they think that Roy had me call Mos Dalitz home to quiet this down," and I did inquire whether he did call Dalitz home and he stated that he had called Dalitz home.

I inquired if Roy had asked him to call Dalitz home and he stated, "No," that Roy had not asked him to call Dalitz home.

I then inquired as to why he had called Dalitz home and he stated that there was a conference coming up on a property matter and he thought Dalitz should attend it and that he was due to come home shortly and that he sent word for him to come on home now, and that is the essence of the discussion.

Q That is the subject matter given by you in

substance of these conversations with Fugazy, is that right?

A That is correct.

Q In your long experience in these various posts did you become familiar with the nature of the activities and the duties of the FBI agents so far as relationship with the officers of the United States Attorney?

A Oh, yes.

MR. WALPIN: Objection. Mr. Nichols has not been in the Federal Bureau of Investigation for six and a half years. There have been, as you know, your Honor, changes in the law.

THE COURT: I know that. Obviously Mr. Nichols knows something about the subject. I do not know what detail he is going to go into.

Q Did the agents make recommendations to the United States Attorneys as to what should be done --

MR. WALPIN: Objection, your Honor.

Q -- with respect to the presentation of a case, the obtaining of an indictment, or anything of that kind?

MR. WALPIN: Objection, your Honor.

CROSS

THE COURT: I think I know the answer to that.

You can answer that.

A The FBI is an investigative agency. It makes no evaluations and Bureau agents under the Bureau's regulations, as I knew them and as I used to teach them, are prohibited from making recommendations for prosecuting action to the United States Attorney.

Q Do you know if the agents of other agencies --

MR. WALPIN: Your Honor, I --

THE COURT: I will sustain the objection on that.

MR. RAICHLE: You may ask.

CROSS EXAMINATION BY MR. WALPIN:

Q Mr. Nichols, you know that the FBI is assisting in the investigation and prosecution of this case?

A I am sure that the FBI is doing its duty.

Q You know, do you not, that one of the duties of the FBI agents is to make suggestions about following up leads?

A The FBI's principal duty is collecting

information and evidence.

Q One of the duties of the FBI agent, in any case, is to continue working on the case to get all the evidence that he can on that case?

A Basically that is correct and he, of course, follows the lines of investigation as outlined to him either by the Department of Justice or by the United States Attorney.

Q Or by his supervisor in the FBI?

A That's correct.

Q Mr. Nichols, you yourself have no personal knowledge of the facts of this case, is that correct?

A No, sir.

Q Your "no, sir" means that it is correct?

A I beg your pardon?

Q You have no personal knowledge?

A No.

Q The only information, as you have related it here, is the information or the statement that you have testified to that which Mr. Fugazy told you in the summer of 1962?

A That is correct.

Q In the summer of 1962 it is a fact, is it not, that the defendant Cohn and Mr. Fugazy were good

friends?

A I thought they were.

Q And in the summer of 1962 Mr. Fugazy, you know, don't you, was going to the defendant Cohn for advice concerning this matter?

A I do not know that of my own independent knowledge.

Q When you say of your "own, independent knowledge," didn't Mr. Fugazy tell you when he came to see you on the second occasion about which you have testified concerning whether he should be interviewed by the FBI without an attorney present that the defendant Cohn had been one of his friends who advised him not to --

A No, he did not tell me that. The friend that primarily he mentioned who had advised him not to go without a lawyer was the late George Sokolsky.

Q Didn't he tell you that he got the same advice from the defendant Cohn?

A No, sir, he did not.

Q Did he mention any other friends that he had gotten the advice from?

THE COURT: If you recall.

GJ-11

Nichols-cross

A I do not recall.

Q Didn't Mr. Fugazy tell you that he had come to see you at the suggestion of the defendant Cohn?

A No, sir.

Q Do you know that subsequent to the summer of 1962 Mr. Fugazy retained independent counsel to advise him concerning this matter?

A I have heard rumors. I have no knowledge of it.

Q Thereafter do you know that Mr. Fugazy voluntarily appeared before the grand jury to give all the facts he knew?

MR. RAICHLE: I object to this, your Honor.

THE COURT: I will let you ask Mr. Nichols whether he knew that Mr. Fugazy voluntarily appeared before the grand jury. I think you can stop there.

Q After that occasion --

A You told me that.

THE COURT: You know now?

THE WITNESS: I know it now.

MR. RAICHLE: He doesn't know it now just because --

THE WITNESS: I was informed.

THE COURT: Go ahead.

Q During, approximately, a two-month period in the summer of 1962 Mr. Fugazy came to you on no less than three occasions to speak to you concerning this matter, is that correct?

A Would you repeat the question.

Q During this approximately two-month period in the summer of 1962 Mr. Fugazy came to you --

A I would say that it was during the three-month period, June, July and August.

Q During the three-month period then in the summer of 1962, Mr. Fugazy came to you on three occasions to discuss this matter with you, is that correct?

A That's correct.

Q In the third conversation he told you, did he not, that he felt that he had a problem in connection with the testimony he had given to the grand jury?

A No, sir, he did not tell me that.

Q He told you, did he not, that there were certain facts that he had not given to the grand jury which he felt would be helpful to the grand jury in

its inquiry?

A He told me that he had refreshed his recollection and that there were certain things that he now recalled. He didn't know whether they would be helpful or not and I asked the direct question: Were these directly related to his testimony?

And he stated "No."

Q I don't mean to interrupt you.

Mr. Nichols, he came to you and said to you -- you used the term that he refreshed his recollection, but at that time he said to you, did he not, that there were certain facts he then knew which he had not given to the grand jury?

MR. RAICHLE: The witness has told what he said.

THE COURT: I think he has. I don't see that there is any point in changing this around. I think Mr. Nichols has covered it, as to what the conversation was.

Q Didn't Mr. Fugazy say that the information which he then had in August which he was talking to you about in August of 1962 could be helpful to the grand jury?

gJ-14

Nichols-cross

A . He did not say that. He said that he didn't know.

Q Do you recall testifying at the last trial, Mr. Nichols -- at page 2501:

"Q Late in August of 1962, that's the date of the third conversation?

"A Subsequently I had my secretary go over my diary and she gave me the date of August 28 as the date when Mr. Fugazy came in to see me after five o'clock in the afternoon."

This is, by the way, Mr. Raichle's question of you on direct examination.

"Mr. Fugazy told me he had been before the grand jury, that he had testified truthfully and that since his appearance before the grand jury he had had an opportunity to refresh his recollection on certain matters and that he wondered what he should do. I inquired if the matters on which his recollection had been refreshed bore directly upon his grand jury testimony. He said they didn't but it could be helpful. I told him that he had to be the judge of that, that there were two courses of action before him to take," and then you went on.

A That's the substance of my testimony

today.

Q Then Mr. Fugazy did say to you that the information which he had not given to the grand jury and which he then told you he had refreshed his recollection on could be helpful to the grand jury?

A He just didn't know. He thought it might. He didn't know.

Q When he told you this about refreshing his recollection about information he had not given the grand jury that he said might be helpful, this was in August of 1962, the month following the date when Mr. Fugazy testified before the grand jury on the first occasion?

A I do not know of the first date that he testified.

Q In July --

A You told me that.

THE COURT: But you don't recall?

THE WITNESS: I have no knowledge of the date.

Q Mr. Nichols, isn't it a fact that in late 1963 two agents of the FBI assisting in the investigation of this case came to Schenley's Corporation and spoke to a Mr. Harrington?

gJ-16

Nichols-cross

A They were there two or three times, as I recall.

Q These FBI agents requested certain information from Schenley's, didn't they?

A And they got the information they requested to your best ability.

Q Mr. Nichols, at first they were told, were they not, to return on a subsequent date?

A That's correct.

Q Thereafter isn't it a fact that at defendant Cohn's request you contacted the FBI in Washington and asked them to halt that investigation by the agents at Schenley's?

A That's an unmitigated lie.

(Laughter)

THE COURT: No comment, ladies and gentlemen.

MR. CHAPMAN: There was so much noise that I didn't hear the answer.

THE COURT: He has answered it.

Q Were the agents told by Mr. Harrington and thereafter, in a communication, that they were not supposed to get that information?

A I have no knowledge of any such statement

as that because my instructions to Harrington was to help them.

Q To your knowledge were the agents --

MR. RAICHLE: He has just answered that.

THE COURT: He has not finished his question, Mr. Raichle.

Q To your knowledge were the agents told by Mr. Harrington that they were not supposed to get that information?

A I can't answer that precisely. I was not present but if Mr. Harrington made any such statement he was not following my instructions.

Q You have been executive vice president of Schenley's Industries for approximately six and a half years?

A That is correct.

Q Before that you were with the FBI?

A Correct.

3 Q Isn't it a fact that you know the defendant Cohn is a close friend and attorney for the chairman of the board of Schenley Industries?

A Definitely.

Q Isn't it a fact that the defendant Cohn recommended you for the job at Schenley Industries?

GJ-18

Nichols-cross
redirect

A I would think that he, along with others, may have. I turned the job down five times before I accepted it.

MR. WALPIN: I have no further questions, your Honor.

REDIRECT EXAMINATION BY MR. RAICHLE:

Q Did you know that it was Judge Dawson who suggested that the government stop annoying Mr. Cohn's clients along with others?

MR. WALPIN: I assure your Honor that Judge Dawson never told the FBI to stop any investigation in this case.

MR. RAICHLE: He suggested it.

THE WITNESS: I would like to elaborate just a little bit.

Q Go ahead.

THE COURT: You can begin.

A Following one visit the Bureau agents made to Schenley, at which time they asked for the cancelled checks showing payments to Mr. Cohn, I instructed that the cancelled checks be gotten out. I then heard that your agents were contacting other clients of Mr. Cohn, asking for information as to fees, what he did for the fees, and the like.

Recross

MR. WALPIN: I object to the hearsay.

I have no objection to Mr. Nichols saying what he did with regard --

THE WITNESS: I wanted to finish my story. I am leading to that.

THE COURT: I don't think you have to go into any detail, but you say that you heard these rumors?

A (Continuing) That concerned me greatly and I did call the FBI to make an inquiry as to whether the Bureau knew that this inquiry was taking place, inquiring as to the fees paid a lawyer because I think that goes pretty far and I was subsequently told that the Bureau was carrying out the instructions of the United States Attorney.

THE COURT: All right.

Q Inquiring about a lawyer --

THE COURT: Let's not get into any more details. Mr. Nichols made his statement.

MR. RAICHLE: Thank you, Mr. Nichols.

RECROSS EXAMINATION BY MR. WALPIN:

Q Before you did that didn't you get memorandum from Mr. Cohn's attorney, Mr. Bolan, asking you to do

GJ-20

Nicholas-recros

that?

A That is an unmitigated lie.

Q Did you get a notification from Mr. Bolan claiming to summarize what Judge Dawson had said?

A I had been told --

Q By whom?

A By Mr. -- I think it was Mr. Bolan.

MR. WALPIN: No further questions, your Honor.

THE WITNESS: I think that --

THE COURT: Thank you, Mr. Nichols, you are excused.

(Witness excused.)

MR. FAICHLE: All right. All things have their end and that is probably the end of our live testimony at the moment.

I have some exhibits that I would like to offer.

I offer the 1961 indictment.

THE COURT: I thought that that had been received.

MR. WALPIN: I have no objection to that,

SUBJECT Roy M. Cohn -
FILE NUMBER 58-5100
SECTION NUMBER 214 Enclosure
Behind
File

9/4/63

AIRTEL

TO: DIRECTOR, FBI (58-5100)
(ATT: ACCOUNTING AND FRAUD SECTION)

FROM: SAC, NEW YORK (58-1232)

SUBJECT: MORTON ROBSON, FORMER AUSA, SDNY;
ROY COHN
BRIBERY

Enclosed herewith is a copy of the indictment filed this date against COHN and MURRAY GOTTESMAN. Also enclosed is a copy of an outline of the indictment prepared by Office of USA, SDNY. Both above enclosures were made available this date by USA ROBERT M. MORGENTHAU, SDNY.

The NYO continues to give this matter top priority attention. Daily liaison being maintained with USA, SDNY.

4-Bureau (Encls. 2)
① Accounting and Fraud Section
1-New York

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(9)

OUTLINE OF THE INDICTMENT

A ten-count indictment was filed today by a Federal Grand Jury charging Roy M. Cohn and Murray E. Gottesman with conspiring to obstruct justice and to commit perjury before the Federal Grand Jury in the Southern District of New York. Both defendants are also charged with committing perjury before the Federal Grand Jury. In addition, the defendant Roy M. Cohn is charged with endeavoring to obstruct justice within the Southern District of New York.

Robert M. Morgenthau, United States Attorney for the Southern District of New York, explained that the Federal Grand Jury was pursuing an investigation to determine whether any persons engaged in a conspiracy to bribe any public official and corruptly to influence and obstruct the due administration of justice in the 1959 Federal Grand Jury investigation into the United Dye stock fraud. The indictment alleges that in February, 1959 the Securities and Exchange Commission forwarded a criminal reference report to the United States Attorney for the Southern District of New York, recommending that evidence relating to the purchase, sale and manipulation of the common stock of United Dye and Chemical Corp. be presented to the Federal Grand Jury. Included in this S.E.C. report was a recommendation that an indictment be sought against several named persons, including Samuel S. Garfield, Irving Pasternak, Allard Roen and Allen K. Swann. In August, 1959, evidence relating to this S.E.C. investigation of the United Dye stock fraud, was presented to a federal grand jury.

The indictment continues by alleging that, in July and August 1959, defendant Cohn and Samuel S. Garfield entered into a scheme whereby Cohn would arrange that Garfield, Pasternak, Roen and Swann would not be named as defendants in any indictment to be voted by the grand jury investigating the United Dye matter. In order to effectuate the agreement made between Cohn and Garfield, Cohn contacted defendant Gottesman who thereafter contacted Morton S. Robson, then Chief Assistant United States Attorney for the Southern District of New York. After this 1959 grand jury concluded hearing the evidence presented to it, it filed an indictment on the United Dye matter, but Garfield, Pasternak, Roen and Swann were not named as defendants in that indictment.

Mr. Morgenthau stated that the investigation of this matter by his office was under the joint direction of Assistant United States Attorneys Gerald Walpin and Donald J. Cohn, who presented the present case to the grand jury. Mr. Morgenthau stated that in July, 1961 the evidence relating to the United Dye matter was again presented to a federal grand jury. That grand jury filed an indictment in which Garfield, Pasternak, Roen and Swann were named as defendants. On March 19, 1962, after investigation, Garfield, Roen and Swann entered pleas of guilty to charges contained in that indictment. On July 12, 1962, Pasternak also entered a plea of guilty to charges contained in that indictment.

On April 2, 1962, a federal grand jury began an

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investigation to determine whether any wrongdoing occurred in regard to the 1959 grand jury which failed to name Garfield, Pasternak, Roen and Swann as defendants in the United Dye fraud indictment filed in 1959. Mr. Morgenthau explained that the indictment, filed by the grand jury, charges that defendant Cohn caused threats to be communicated to Garfield and Roen, who both appeared as witnesses before the grand jury and improperly induced Garfield falsely to recant his truthful testimony that he had previously given to this grand jury. In addition, the indictment charges that defendant Cohn attempted to cause another witness, William D. Fugary, to give false testimony to this grand jury. Furthermore, the indictment charges that it was part of the conspiracy that Cohn and Gottesman would perjure themselves before this grand jury when questioned ^{as} to defendant Cohn's contact with Gottesman in 1959 and Gottesman's actions in 1959 in regard to the United Dye stock fraud indictment. Also, the indictment charges that the defendants ^{AND} are co-conspirators would falsely testify before this grand jury about meetings and conversations that occurred in 1963 in furtherance of the conspiracy to obstruct justice charged in this indictment. The charges in the indictment are as follows:

Count One: Charges defendants Cohn and Gottesman with conspiring to obstruct justice and commit perjury. Named as co-conspirators are Daniel J. Driscoll, Samuel Litt, Bruce Litt, Stanley Klenbogan and Samuel S. Garfield.

Count Two: Charges defendant Cohn with perjury in testifying before the grand jury that he did not request Fugary to see and speak to Garfield and Roen concerning their knowledge of and relationship to defendant Gottesman and concerning the grand jury investigation ~~(which was submitted to the indictment filed today)~~. The indictment alleges this testimony was untrue in that, on several occasions during June 1962, defendant Cohn asked Fugary to see and speak to Garfield and Roen on these subjects.

Count Three: Charges Defendant Cohn with perjury in testifying that he did not cause a message to be sent to one Mos B. Dalitz in Europe requesting him to return immediately to New York. The indictment alleges that this testimony was false in that defendant Cohn, in June 1962, told William Fugary to have a message sent to Dalitz requesting his immediate return from Europe.

Count Four: Charges defendant Cohn with perjury in testifying that he attended a meeting in 1959 in which Garfield and Swann discussed with defendant Gottesman the involvement of Garfield and Roen in the United Dye matter then under investigation. The indictment alleges that this testimony was untrue in that no such meeting ever took place.

Count Five: Charges defendant Cohn with endeavoring to obstruct justice in attempting to alter and suppress the testimony of Roen, a witness before the grand jury that today returned this indictment, by causing one Eli Boyer to communicate threats from defendant Cohn to Roen.

CH-y

The Federal Bureau of Investigation assisted the Grand Jury in this investigation.

Both defendants Cohn and Gottesman are attorneys.

Defendant Cohn, age 36, has his office at 598 Madison Avenue and lives at 1165 Park Avenue. Defendant Gottesman, age 36, lives at 70 East 10th Street and has his office at 217 Broadway.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA :

-v- :

63 Cr. 748

ROY M. COHN and MURRAY E. GOTTESMAN, :

Defendants. :

- - - - -X

The Grand Jury alleges:

INTRODUCTION

1. In 1956, the Securities and Exchange Commission commenced an investigation to determine whether any persons committed violations of the Securities laws of the United States in the purchase, sale and manipulation of the common stock of United Dye and Chemical Corporation, and the administration of said corporation.

2. In February 1959, a criminal reference report was forwarded from the Securities and Exchange Commission to the United States Attorney for the Southern District of New York, recommending that evidence obtained by the Securities and Exchange Commission, during the investigation referred to in paragraph one above, be presented to a Grand Jury of the United States of America, with a recommendation that an indictment be sought against certain named persons. Among the persons so named were Samuel S. Garfield, Irving Pasternak, Allard Roen, and Allen K. Swann.

3. In August 1959, the Grand Jurors of the United States of America, duly impaneled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District in proceedings in which a law of the United States authorizes an oath to be administered, commenced and conducted an investigation which continued before said Grand Jurors up to and including August 25, 1959,

pertaining to possible violations of the Securities laws of the United States, and any other Federal criminal statutes, arising out of the purchase, sale and manipulation of the common stock of United Dye and Chemical Corporation and the administration of said corporation, and out of the investigation conducted by the Securities and Exchange Commission, described in paragraphs one and two of this indictment.

4. In or about July and August 1959, ROY M. COHN and Samuel S. Garfield entered into a scheme whereby ROY M. COHN would arrange that Samuel S. Garfield, Irving Pasternak, Allard Roen and Allen K. Swann would not be named as defendants in any indictment that might be voted by a Grand Jury investigating the matters described in paragraph two of this indictment.

5. In or about August 1959, and pursuant to said scheme, ROY M. COHN contacted MURRAY E. GOTTESMAN, an attorney, in order to effectuate the arrangement described in paragraph four of this indictment.

6. In or about August 1959, MURRAY E. GOTTESMAN contacted Morton Robson, then Chief Assistant United States Attorney for the Southern District of New York, in order to effectuate the arrangement described in paragraph four of this indictment.

7. On August 25, 1959, the Federal Grand Jury concluded the investigation described in paragraph three of this indictment, and voted and filed Indictment CR 159-275, in which certain persons were named as defendants in charges involving the purchase, sale and manipulation of the common stock of United Dye and Chemical Corporation, and the administration of said corporation. Samuel S. Garfield, Irving Pasternak, Allard Roen, and Allen K. Swann were not named as defendants therein.

8. In July 1961, the Grand Jurors of the United States of America, duly impaneled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District in proceedings in which a law of the United States authorizes an oath to be administered, commenced and conducted a reinvestigation, which

continued before said Grand Jurors up to and including July 14, 1961, of the matter described in paragraph three of this indictment.

9. On July 14, 1961, the Federal Grand Jury concluded the investigation described in paragraph eight of this indictment, and voted and filed Indictment 61 Cr. 671, in which certain persons were named as defendants in charges involving the purchase, sale and manipulation of the common stock of United Dye and Chemical Corporation. Samuel S. Garfield, Irving Pasternak, Allard Roen, and Allen K. Swann, among others, were named as defendants therein.

10. On March 19, 1962, Samuel S. Garfield entered a plea of guilty to a charge of conspiring to violate the Securities laws of the United States, relating to the purchase, sale and manipulation of the common stock of United Dye and Chemical Corporation, which charge was contained in the indictment described in paragraph nine of this indictment.

11. On March 19, 1962, Allard Roen entered a plea of guilty to a charge of conspiring to violate the Securities laws of the United States, relating to the purchase, sale and manipulation of the common stock of United Dye and Chemical Corporation, which charge was contained in the indictment described in paragraph nine of this indictment.

12. On March 19, 1962, Allen K. Swann entered a plea of guilty to a charge of illegally manipulating the market price of the common stock of United Dye and Chemical Corporation, which charge was contained in the indictment described in paragraph nine of this indictment.

13. On July 12, 1962, Irving Pasternak entered a plea of guilty to charges of conspiring to violate the Securities laws of the United States, relating to the purchase, sale and manipulation of the common stock of United Dye and Chemical Corporation, and the illegal sale of said stock, which charges were contained in the indictment described in paragraph nine of this indictment.

14. On April 2, 1962, the Grand Jurors of the United States of America, duly impaneled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District in proceedings in which a law of the United States authorizes an oath to be administered, commenced and conducted an investigation which continued before said Grand Jurors up to and including the date of the filing of this indictment, pertaining to possible violations of Title 18, United States Code, Sections 371, 201, and 1503, and any other Federal criminal statutes, for the purpose of determining whether any persons engaged in a conspiracy to bribe any public official and corruptly to influence and obstruct the due administration of justice in the Grand Jury investigation described in paragraph three of this indictment.

COUNT ONE

The Grand Jury charges:

15. From on or about the 1st day of May, 1962, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, ROY M. COHN and MURRAY E. GOTTFMAN, the defendants herein, and Daniel J. Driscoll, Samuel Litt, Bruce Litt, Stanley Ellenbogen, and Samuel S. Garfield, named as co-conspirators but not as defendants herein, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together and with each other, and with other persons whose names are to the Grand Jury known and unknown, to commit certain offenses against the United States, to wit, to violate Sections 1621 and 1503 of Title 18, United States Code.

16. It was part of said conspiracy that said defendants and co-conspirators would take oaths that they would testify truly before competent tribunals, to wit, the Grand Jurors of the United States of America, duly impaneled and sworn in the United States District Court for the Southern District of New York, and inquiring for that

District in proceedings in which a law of the United States authorizes oaths to be administered, and unlawfully, wilfully, knowingly, and contrary to such oaths would state material matter which they did not believe to be true.

17. It was further a part of said conspiracy that said defendants and co-conspirators, unlawfully, wilfully, and knowingly, would corruptly, and by threats and threatening communications, influence, intimidate and impede, and endeavor to influence, intimidate and impede witnesses before Grand Jurors of the United States of America, on account of testifying and having testified before the said Grand Jurors in a matter pending thereafter.

18. It was further a part of said conspiracy that said defendants and co-conspirators would, corruptly and by threats and threatening communications, influence, obstruct, impede and endeavor to influence, obstruct and impede, the due administration of justice in the United States Judicial District for the Southern District of New York.

19. Said administration of justice involved the investigation and proceedings before the Grand Jury described in paragraph fourteen of this indictment, the existence of said proceedings and investigation being known to the defendants.

20. It was the belief of the defendants that during the course of the investigation described in paragraph fourteen of this indictment, they would be questioned concerning the purposes of and circumstances surrounding the contact of MURRAY E. GOTTESMAN by ROY M. COHN, referred to in paragraph five of this indictment, and the contact of Morton Robson by MURRAY E. GOTTESMAN, referred to in paragraph six of this indictment.

21. It was further the belief of the defendants that during the course of the investigation described in paragraph fourteen of this indictment, they would be questioned concerning the extent of contact, if any, between MURRAY E. GOTTESMAN and Samuel S. Garfield, during July and August 1959.

22. It was further a part of said conspiracy that the defendants and co-conspirators, when questioned thereon before the aforesaid Grand Jury and by investigating agencies of the Government, would give evasive, fictitious, fraudulent, vague, false and manufactured testimony with respect to the subject matter specified in paragraphs twenty and twenty-one of this indictment.

23. As the defendants then and there well knew, the following meetings, conversations, and events had occurred:

- a. On or about June 6, 1962, a Grand Jury subpoena was served upon MURRAY E. GOTTESMAN.
- b. On or about June 6, 1962, ROY M. COHN had a conversation with William D. Fugazy.
- c. On or about June 6, 1962, William D. Fugazy had a conversation with Allard Roen.
- d. On or about June 11, 1962, ROY M. COHN had a conversation with William D. Fugazy.
- e. On or about June 7, 1962, ROY M. COHN met with MURRAY E. GOTTESMAN and Albert A. Blinder.
- f. On or about June 21, 1962, William D. Fugazy talked with Samuel S. Garfield.
- g. On or about June 23, 1962, ROY M. COHN had a conversation with William D. Fugazy.
- h. On or about June 25, 1962, ROY M. COHN had a conversation with Eli Boyer.
- i. On or about June 25, 1962, Eli Boyer had a conversation with Allard Roen.
- j. On or about June 25, 1962, ROY M. COHN had a conversation with William D. Fugazy.
- k. On or about June 26, 1962, William D. Fugazy had a conversation with Allard Roen.
- l. On or about June 27, 1962, William D. Fugazy had a conversation with Allard Roen and Samuel S. Garfield.
- m. On or about June 27, 1962, Daniel J. Driscoll had a conversation with William D. Fugazy.
- n. On or about June 27, 1962, ROY M. COHN had a conversation with William D. Fugazy.

- c. On or about July 4, 1962, ROY M. COHN had a conversation with Eli Boyer.
- d. On or about July 5, 1962, Allard Roen had a conversation with Eli Boyer.
- e. On or about July 5, 1962, a Grand Jury subpoena was served upon William D. Fugazy.
- f. On or about July 5, 1962, ROY M. COHN had a conversation with William D. Fugazy.
- g. On or about July 7, 1962, ROY M. COHN had a conversation with William D. Fugazy.
- h. On or about July 7, 1962, ROY M. COHN had a conversation with Eli Boyer.
- i. On or about July 10, 1962, after testifying before the Grand Jurors of the United States, William D. Fugazy went to offices of ROY M. COHN and Albert A. Blinder, 20 Exchange Place, New York, New York.
- j. On or about July 10, 1962, William D. Fugazy had a conversation with ROY M. COHN.
- k. On or about July 16, 1962, ROY M. COHN had a conversation with Samuel S. Garfield.
- l. On or about July 16, 1962, ROY M. COHN had a conversation with William D. Fugazy.
- m. On or about July 16, 1962, ROY M. COHN had a conversation again with Samuel S. Garfield.
- n. On or about July 17, 1962, ROY M. COHN, Samuel S. Garfield and John A. Kiser had a conversation.
- oa. On or about July 17, 1962, ROY M. COHN had a conversation with William D. Fugazy.
- ob. On or about August 4, 1962, John A. Kiser had a conversation with Samuel S. Garfield.
- oc. On or about May 10, 1963, a Grand Jury subpoena was served upon Eli Boyer.
- od. On or about May 15, 1963, ROY M. COHN had a conversation with Eli Boyer.

ec. On or about May 16, 1963, after testi^{ng}
bel^g the Grand Jurors of the United States,
Eli Boyer went to the offices of ROY M. COHN
and Albert A. Blinder at 598 Madison Avenue,
New York, New York.

ff. On or about May 17, 1963, after testifying before
the Grand Jurors of the United States, Eli Boyer
went to the offices of ROY M. COHN and Albert A.
Blinder at 598 Madison Avenue, New York, New York.

24. It was the belief of the defendants and co-conspirators
that each person who participated in the meetings, conversations and
events, enumerated in the preceding paragraph of this indictment, who
was subpoenaed or requested to appear before the Grand Jury
described in paragraph fourteen of this indictment would be questioned
in the course of said investigation with respect to some or all of
the aforesaid meetings, conversations, and events.

25. It was a part of said conspiracy that the defendants
and co-conspirators would conceal from the aforesaid Grand Jury and
from the investigating agencies of the Government, the fact that some
of the aforesaid conversations, meetings, and events
actually occurred, the substance of the conversations, the purpose
of the aforesaid conversations, meetings and events, and all other
circumstances surrounding the aforesaid conversations, meetings
and events.

26. It was further a part of said conspiracy that the
defendants and co-conspirators, when questioned thereon before the
aforesaid Grand Jury and by investigating agencies of the Government,
would give evasive, fictitious, fraudulent, vague, false and manu-
factured testimony with respect to the aforesaid conversations,
meetings, and events.

27. It was further a part of said conspiracy that the
defendants would attempt to influence Samuel S. Garfield corruptly
and by threats falsely to recant testimony previously given by him
before the Grand Jury described in paragraph fourteen of this
indictment.

28. It was further a part of said conspiracy that the defendants would attempt to influence Samuel S. Gerfield and Allard Roen corruptly and by threats to give false, fictitious, fraudulent and manufactured information when questioned by investigating agencies of the Government, and false, fictitious, fraudulent and manufactured testimony under oath when questioned before the afore-said Grand Jury, concerning the subject matter described in paragraphs twenty, twenty-one and twenty-three of this indictment.

OVERT ACTS

In furtherance of the said conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

Each of the meetings, conversations, and events set forth in the following subparagraphs of paragraph twenty-three of this indictment:

<u>Overt Act</u>	<u>Subparagraph</u>
1	b
2	d
3	e
4	g
5	h
6	j
7	m
8	n
9	r
10	s
11	v
12	w
13	x
14	y
15	z

Overt Act

Subparagraph

16

aa

17

dd

18. On March 21, 1963, the defendant, ROY M. COHN, testified falsely before Grand Jurors to material matters as set out in Count One of this indictment.

19. On April 5, 1963, the defendant, ROY M. COHN, testified falsely before Grand Jurors to material matters as set out in Counts One, Two, Three, Four and Five of this indictment.

20. On June 8, 1962, the defendant, MURRAY E. GOTTESMAN, testified falsely before Grand Jurors to material matters as set out in Count Nine of this indictment.

21. On June 18, 1962, the defendant, MURRAY E. GOTTESMAN, testified falsely before Grand Jurors to material matters as set out in Count Nine of this indictment.

22. On July 31, 1963, the defendant, MURRAY E. GOTTESMAN, testified falsely before Grand Jurors to material matters as set out in Count Ten of this indictment.

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

29. The Grand Jury repeats and realleges the allegations of paragraph fourteen of this indictment as though fully set forth herein.

30. It was material to the Grand Jury investigation described in paragraph fourteen of this indictment to ascertain whether, in or about June 1962, ROY M. COHN had requested and instructed William D. Fugazy to see and speak to Samuel E. Garfield and Allard Roen concerning the Grand Jury investigation described in paragraph fourteen of this indictment and Garfield's and Roen's knowledge of and relationship to MURRAY E. GOTTESMAN.

31. On or about March 21, 1963 and April 5, 1963, in the Southern District of New York, ROY M. COHN, the defendant, having duly taken an oath before the competent tribunal described in paragraph fourteen of this indictment that he would testify truly, and having

been duly advised of the investigation then and the being conducted, unlawfully, wilfully, knowingly and contrary to such oath, did testify falsely before said Grand Jury with respect to the aforesaid material matters as follows:

March 21, 1963:

Q. Now, do you remember where Mr. Fugazy had gone to the midwest?

A. Yes, it was either - - I say, it was either - - I think it was either Chicago or Detroit.

Q. Do you know why he went to Chicago or Detroit?

A. Yes. He told me.

Q. When did he tell you? Before or after?

A. Probably both.

* * * *

Q. Had you known in advance he was going to Detroit or Chicago?

A. I don't remember that. I might very well have known. I don't know.

Q. Had you asked him to go to Detroit or Chicago?

A. Did I ask him to go? No.

Q. Had you asked him to do anything for you - -

A. No.

Q. May I finish the question, so that the record will be clear, Mr. Cohn?

A. Surely, surely.

Q. So the Grand Jury will be clear on what I'm asking, Mr. Cohn?

A. Surely.

Q. Mr. Cohn, had you asked him to do anything for you while he was going to Detroit or Chicago?

A. No.

Q. Had you asked him to do any favor for you while in Detroit or Chicago?

A. Favor for me?

Q. Yes.

A. I recall asking him to do no favor.

April 5, 1963

Q. Now, this year - - that is, last year, 1962 -- did you ask Mr. Fugazy to see Garfield for you?

A. Did I ask him to?

Q. Yes.

A. No.

Q. Did you ask him to see Roen for you?

A. No.

Q. Did you ask him to speak to Garfield for you?

A. No.

Q. Did you ask him to speak to Roen for you?

A. No. However, Mr. Fugazy said he had to see Roen.

* * * *

Q. Had you previously discussed Mr. Gottesman with Mr. Fugazy before Mr. Fugazy's trip to Detroit?

A. I would doubt that.

Q. Is that your best recollection that you did not?

A. Yes, sir. I would doubt that.

Q. Previous to this conversation with Mr. Fugazy and previous to his trip to Detroit, had you ever discussed with Mr. Fugazy the fact that you had recommended Mr. Gottesman to Garfield and Roen?

A. I might have; I don't recall.

Q. Do you recall when you might have discussed it with him?

A. Almost any time, I suppose; during the trial or proceedings or prior thereto.

Q. What is your best recollection, did you have an occasion --

A. I recall no specific conversation with Mr. Fugazy but I saw him frequently and it's perfectly possible it could have been mentioned.

Q. Would this have been - - is it your recollection that such conversation occurred in 1959?

A. With Mr. Fugazy?

Q. ... are you talking about 1962?

A. Might have been any time during that period,
Mr. Walpin.

Q. What period?

A. 1959 to, through 1962. As I say, I see Mr. Fugazy frequently. It's perfectly possible we discussed Mr. Roen, Mr. Garfield, Gottesman, Gould and - -

Q. Did you ever ask Mr. Fugazy to find out anything about Mr. Gottesman?

A. To find out about Gottesman?

Q. Yes.

A. I believe that there was a discussion about whether or not Gottesman had sued him, or something like that.

Q. When was this discussion?

A. I don't recall. I believe that was last summer.

Q. Before or after his trip out to Detroit?

A. I believe it was after.

Q. As you know, talking about before his trip to Detroit, had you ever asked him to find out anything about Mr. Gottesman?

A. Not that I recall.

Q. Did you ever ask him to ask anybody else about Mr. Gottesman?

A. To ask anyone else about Mr. Gottesman?

Q. Yes. Yes.

A. I don't recall that.

32. The aforesaid testimony of said defendant, ROY M. COHN, as he then and there well knew and believed, was untrue in that on several occasions during June 1962, said defendant ROY M. COHN had requested William D. Fugazy to see and speak to Samuel S. Garfield and Allard Roen concerning the Grand Jury investigation described in paragraph fourteen of this indictment, and Garfield's and Roen's knowledge of and relationship to MURRAY E. GOTTESMAN.

(Title 18, United States Code, Section 1621.)

COUNT THREE

The Grand Jury further charges:

33. The Grand Jury repeats and realleges the allegations of paragraph fourteen of this indictment as though fully set forth herein.

34. It was material to the Grand Jury investigation described in paragraph fourteen of this indictment to ascertain whether, in June of 1962, ROY M. COHN had caused a message to be sent to Moe B. Dalitz in Europe requesting that Moe B. Dalitz return immediately to New York.

35. On or about April 5, 1963, in the Southern District of New York, ROY M. COHN, the defendant, having duly taken an oath before the competent tribunal, described in paragraph fourteen of this indictment, that he would testify truly, and having been duly advised of the investigation then and there being conducted, unlawfully, wilfully, knowingly, and contrary to such oath, did testify falsely before said Grand Jury, with respect to the aforesaid material matters as follows:

Q. While Mr. Dalitz was in Europe on this long trip that you spoke about, - -?

A. Yes?

Q. He was there with his wife?

A. His wife and he has a little girl, a cute little girl about, I'd say, about eight years old.

Q. Did you get in touch with him in Europe?

A. Did I get in touch with him?

Q. Yes?

A. No; I think I got some postcards from Mrs. Dalitz.

Q. Did you ask anybody else to get in touch with Mr. Dalitz for you?

A. Did I?

Q. Yes?

A. No.

Q. Did you ask anyone in New York to get in touch with Mr. Dalitz while he was in Europe?

A. Did I ask anyone in New York to get in touch with Mr. Dalitz while he was in Europe?

Q. Did you answer "No" to this?

A. My answer is "No". I don't recall any such thing.

36. The aforesaid testimony of said defendant, ROY M. COHN, as he then and there well knew and believed, was untrue in that in June, 1962, the said defendant, ROY M. COHN, told William D. Fugary to have a message sent to Moe B. Dalitz in Europe requesting that said Moe B. Dalitz return immediately to New York, New York.

(Title 18, United States Code, Section 1621.)

The Grand Jury further charges:

37. The Grand Jury repeats and realleges the allegations of paragraph fourteen of this indictment as though fully set forth herein.

38. It was material to the investigation described in paragraph fourteen of this indictment to ascertain whether a meeting ever occurred during 1959 in which Samuel S. Garfield and Allen K. Swann discussed with MURRAY J. GOTTESMAN, in the presence of ROY M. COHN, the involvement of Samuel S. Garfield and Allard Roen in the subject matter of the investigation described in paragraph three of this indictment.

39 On or about April 5, 1963, in the Southern District of New York, ROY M. COHN, the defendant, having duly taken an oath before the competent tribunal described in paragraph fourteen of this indictment that he would testify truly, and having been duly advised of the investigation then and there being conducted, unlawfully, wilfully, knowingly, and contrary to such oath, did testify falsely before said Grand Jury with respect to the aforesaid material matters as follows:

Q What happened after your telephone call to Mr. Gottesman with regard to this matter?

A I believe I arranged an appointment with Mr. Garfield and Mr. Gottesman.

Q And do you recall how you arranged the appointment?

A No, I don't. I'm sure I would have called Mr. Garfield and called Mr. Gottesman and gotten a mutually agreeable time and had them meet.

Q And did they meet?

A Yes.

Q Were you present?

A I don't recall whether I was present at the first meeting or not.

Q Were you present at any meeting?

A Yes.

Q What meeting were you present at?

A I recall being present at a meeting attended by Mr.

Gottesman, Mr. Garfield and a Mr. Swann, Mr. . . K. Swann, who was a lawyer from the -- from Denver, I believe, Colorado, who Mr. Gottesman had arranged to come in and testify before the Grand Jury to the effect, I believe, that he had given an opinion or advised Mr. Garfield that the sale of the stock was not in violation of -- it came under an exemption or something -- was not in violation of the registration provisions.

Q Do you recall where this was held, this meeting?

A It was held at Mr. Garfield's hotel suite.

Q Do you recall when this was?

A No, I don't.

Q Do you recall when this was in relation -- strike that. Had you ever met Mr. Swann previously?

A I don't believe I ever met him before or after.

Q Would you again explain the circumstances of this meeting with Mr. Garfield and Mr. Swann.

A Yes. Mr. Garfield, after he retained Mr. Gottesman, Mr. Garfield had spoken - kept on calling me from time to time, and I know that I spoke with Mr. Gottesman some time, some times, about how Mr. Garfield's matter was progressing. There had come a time - I don't remember when - when Mr. Gottesman reached a conclusion that it would be very important to have this lawyer on whose opinion Mr. Garfield claimed to have relied in making the stock sales produced for the authorities, and he arranged for such a production, I believe, and there was a meeting with this lawyer up at Mr. Garfield's hotel which either Mr. Garfield or Mr. Gottesman asked me to come to, and I did go to it.

Q And had you spoken to Mr. Gottesman about how he had arranged for this lawyer - I assume Mr. Swann, you mean - to appear before the Grand Jury?

A No. I hadn't gone into detail. I assume obviously it would have to be through the U. S. Attorney's office.

Q Had Mr. Gottesman in telling you of this proposed meeting with Mr. Garfield and Mr. Swann, Mr. Gottesman and yourself, discussed with you your opinion on Mr. Swann's appearing before the Grand Jury?

A He probably did, yes, sir.

Q And do you recall what your opinion was?

A I'm sure my opinion would have been that by all means he should. If Mr. Garfield relied on an opinion of counsel and counsel was available, by all means counsel should explain to the authorities that he had so advised Mr. Garfield and what the basis of his advice was. I thought it was definitely a good move.

Q You had not discussed with Mr. Gottesman how he had arranged for Mr. Swann to appear before the Grand Jury?

A You mean the actual mechanical details?

Q Yes.

A I don't know.

Q Had Mr. Gottesman told you that he had arranged time, however, for --

A Yes, I believe he said --

Q M Cohn, may I finish my question

A I'm sorry, I thought you had.

Q Had Mr. Gottesman told you he had arranged for Mr. Swann to appear before the Grand Jury?

A I believe he did. I'm sure - I'm sure that he said that Swann - that the Grand Jury would hear Swann if it was decided to have him come in.

Q Do you know who Mr. Gottesman had talked to over at the United States Attorney's office?

A No.

Q But you knew at that time from what you say that he had already been over at the United States Attorney's office?

A I'm sure he had. He would have had to be in order to - yes.

Q I couldn't hear that last.

A I said he would have had to be over here in order to arrange this Grand Jury appearance.

* * *

Q Now, do you recall whether Mr. Gottesman told you how many times he had met with Mr. Garfield on this matter?

A No. ,

Q You have no knowledge of how many times he met with Mr. Garfield?

A No. The only thing I really have knowledge of is the once when I was there.

Q Do you recall whether this meeting - and I'm talking about the meeting between yourself, Mr. Gottesman, Mr. Garfield and Mr. Swann - do you recall whether it occurred in the morning, the afternoon or the evening?

A My impression, it was in the afternoon.

Q Do you recall if anybody else was present?

A I'm quite sure nobody else was present.

Q Do you recall whether anybody else was there at any time while you were at the hotel room?

A On that occasion?

Q Yes.

A No.

Q And by that I mean, Mr. Cohn, for example, when you got there was anybody else present or at any time during the meeting did somebody else come in?

A I have absolutely no recollection, Mr. Walpin.

Q Is your best recollection that you saw nobody else at that occasion when you were up at Mr. Garfield's suite?

A That's right.

Q Do you recall how you went to Mr. Garfield's suite?

A How I went from my office up?

Q Yes.

A No.

Q Did you go from your office?

A I don't know. This is 1959. I haven't the remotest idea.

Q Did you discuss this meeting that you were going to, with anyone else?

A I could have. I have no recollection of it.

Q Did you discuss the meeting afterwards with anyone else?

A I might have. I might have asked people in my firm whether they thought this was the proper procedure and whether it was a good move to have, to request that Swann be heard by the Grand Jury, or whatever it was. I think there was some discussion about Mr. Garfield himself testifying before a Grand Jury, and I was very much against that, I recall.

Q Now, can you tell the Grand Jury what was discussed, as best as you can recall, at this meeting between yourself, Mr. Garfield, Mr. Swann and Mr. Gottesman?

A Well, the discussion was about Mr. Swann's testimony before the Grand Jury; that he was going to testify before the Grand Jury and he was going to tell about the opinion, the fact he had advised Mr. Garfield this came under an exemption and the stock did not require registration and there was no wilful wrongdoing on Mr. Garfield's part, and that Mr. Swann thought Mr. Garfield really didn't understand the details or technicalities of the whole thing. I do remember that Mr. Swann was almost endless. He would ask me a simple question, or something like that, and he would go on for twenty, thirty minutes, and I did suggest that in appearing before the Grand Jury he try to keep his answers down to some reasonable bounds of time.

Q Now, what did Mr. Swann look like?

A He was -- when I say -- I'd say he was upper middle-aged; I believe he had whitish hair. I would place him, maybe, at fifty-five, - something like that, - sixty. Maybe that's middle, middle-aged.

Q Any specific physical characteristics, do you recall?

A I don't recall anything in particular.

Q How was the eyesight?

A I think he wore glasses.

Q I'm sorry; I didn't hear.

A I said I believe he wore glasses. I'm not sure. I do remember he talked a lot. I don't remember that he --

Q Do you see him walking?

A Did I see him walking?

Q Yes?

A I don't know. I might have, might not have. I think we were sitting in a living-room in Mr. Garfield's suite.

Q Do you recall any physical characteristics about his walking?

A I don't know if I ever saw him walking.

Q Do you recall any physical characteristics about his bearing?

A No, I recall nothing in particular. As I say, the one thing I do recall is he was very long-winded.

Q Do you recall anything unusual about his dress?

A Anything unusual about his dress?

Q Yes, that you recall at this time?

A No, I don't recall anything unusual about his dress. If he came from Denver, he might --

Q I'm not asking you about "might", Mr. Cohn.

A --- have certain liberties which we might not take.

Q Do you recall anything?

A No, I don't recall anything.

Q What was his height?

A I would say his height was, -- I don't think he was very short, or very tall, -- I'd say average, or above average, -- I don't know; I just don't.

Q Well, what would you say?

A I don't have a clear --

Q What would you say, Mr. Cohn was "tall" or "short" or "average"? I don't know what you mean when you use those terms?

A I really shouldn't, because it's really a subjective test, rather than an objective test. There was nothing about Mr. Swann that stood out in my mind, other than the two things I can tell you. As I say, he was not young, meaning he was not twenty or thirty or forty, -- something like that, -- I think he was in his fifties or sixties. I believe that he had -- I believe that he had whitish hair, and I do remember that he was almost interminable in his answers.

Q Mr. Cohn, would you consider -- how tall are you, Mr. Cohn?

A Five - eight.

Q Do you consider yourself about average height, or short, or tall, or what?

A I would say average to short, -- on the short side.

Q What would you consider as average in relation to five-foot eight?

A Oh, gee, I don't know, Mr. Walpin.

Q Mr. Cohn, you used the term.

A You've been asking me for, --

Q Mr. Cohn, I'm asking you to define the term that you yourself used. What do you mean by "average", - which was the term you used?

A Let me withdraw --

Q No, Mr. Cohn, I'm sorry. I asked you to define the term you used.

A What I meant when I used the word "average" is, nothing that stood out one way or another in my mind, that I remember today. If I had seen him standing or walking, and he was six-feet five, I probably would have remembered. If he were four-feet-four, I probably would have remembered. I don't remember. I probably have never seen him stand. I remember the man. I remember listening to him by the hour.

Q Did you shake hands with him when you came in?

A Did I shake hands with him? I don't remember if I shook hands with him.

Q You don't remember whether you shook hands with Mr. Swann at all?

A Mr. Walpin, do I remember four years ago whether I walked into the room, shook hands with him? I don't know if I did or I didn't.

Q Was Mr. Swann in the room when you came in?

A I believe Mr. Swann was in the room. I don't recall.

Q Do you recall shaking hands with him or not?

A I don't recall. I usually do.

Q Is it your recollection whether or not he was seated when you walked in?

A Mr. Walpin, I have no recollection -- I don't know whether he was seated or stood up and shook hands or whether he was wearing a blue suit or a brown. I don't remember.

Q Well, Mr. Cohn, what is the maximum height in your definition of a short person?

A What is the maximum height in my definition of a short person? I don't know.

Q Well, Mr. Cohn, you used the term "short" before.

A I suppose it's a visual thing, which we'd make a subjective judgment about, -- if somebody makes a particular impression on us, of one extreme or another. I don't know what the specific definitions are. I think I know what we all mean when we use terms like that.

Q Mr. Cohn, what's your definition when you use the term "short"?

A I would say somebody who's noticeably below average.

Q I'm five-foot-four and a half, Mr. John, and I'm standing at this moment, as you can see. Do you consider me short?

A I'd consider you on the short side. I'd probably consider myself on the short side a little.

Q Now, Mr. Donald Cohn is five-nine and a half, and he's standing up. What do you consider him?

A I'd say about average.

Q Mr. Foreman has kindly offered to accept my request to stand up, and he's six feet tall: what would you consider him?

A I'd consider him taller than average. So long as I don't have to give prizes for the guessing I'm doing.

Q Now, did Mr. Swann have a full head of hair?

A Mr. Walpin, if you go on five minutes more, you're going to persuade me I never saw Mr. Swann, and I know I did. I don't recall Mr. Swann not having a full head of hair. I think Mr. Swann had hair.

Q How did Mr. Swann talk?

A A lot.

Q How?

A I don't recall.

Q You don't recall anything unusual in his speech, in his speaking?

A I don't know. He might have had the type of speech that's indigenous to his part of the country, which I wouldn't have regarded as anything unusual. He might not have. I do remember him talking at great length.

Q What did Mr. Swann say?

A Oh, everything.

Q Well, will you tell the Grand Jury what you recall he said?

A Oh, on and on, about SEC laws, oil laws, stock laws, on and on.

Q How long were you at this meeting?

A Oh, I'd say maybe an hour and a half, two hours, something like that.

Q Did you stay the entire time at the meeting?

A I don't know. I might have left before the rest of them.

Q Whom did you come with?

A I don't recall that either.

Q W. O. did you leave with?

A I don't recall. I imagine I left one. I probably came alone, but now I have no recollection, four years ago, whether I walked into the room alone or with somebody else. I could have ridden up from downtown with Mr. Gottesman, if I had been downtown, if he had been downtown. I don't know.

Q Mr. Cohn, would you, to the best of your recollection, recall for the Grand Jury what was said at that meeting?

A What I recall at that meeting? Mr. Swann was going to appear before the Grand Jury, to testify about advice he had given to Mr. Garfield and his associates, concerning the fact that the stock which they had obtained came under some exemption, and therefore did not require registration prior to sale, and, he was -- going into great lengths about he was going to tell them this, and he was going to tell them that.

Q What was he going to tell them?

A In this area -- about how the transaction arose, and about his interpretation of the laws, and so on and so forth.

Q What was his interpretation of the laws?

A His interpretation of the laws, apparently, was that he had the right to sell these shares under an exemption.

Q What was the exemption?

A It had something to do with, -- it had something to do with -- about when you merge two companies, - when you merge two companies, the stock is exempt.

Q Did anybody put any questions to Mr. Swann?

A I know that I told him, as delicately as I could, that I thought he could be much more persuasive if he would be more brief in his answers.

Q Did anybody put any questions to Mr. Swann?

A I believe that Mr. Gottesman was making suggestions to him, or asking him questions, or things like that.

Q Do you recall any questions Mr. Gottesman put to him?

A I don't recall now any questions specifically, no.

Q What did Mr. Garfield say?

A I don't imagine Mr. Garfield said much.

Q Do you recall Mr. Garfield saying anything?

A No, I really don't recall him specifically saying anything.

Q Do you recall that he said nothing?

A No.

Q Did you have anything for refreshments while you were there?

A I don't know.

* * *

Q Do you know whether Mr. Swann appeared before the Grand Jury?

A I believe he did. He was -- it was certainly intended that he would, and I believe he did.

Q Do you recall when, in relation to the time that you had this meeting, that he appeared before the Grand Jury?

A I think very shortly thereafter.

Q When you say "very shortly thereafter" - do you mean within a day, or two?

A Yes, within the next few days.

Q How did you find out that he had appeared before the Grand Jury?

A I don't know that I did find out about it. But the purpose of the whole thing was that he was going to testify before the Grand Jury, to support Mr. Garfield and Mr. Roen.

Q Did you ever discuss with Mr. Gottesman whether Mr. Swann had appeared before the Grand Jury?

A I might have; I don't recall.

Q Did you ever discuss it with Mr. Garfield?

A I might have; I don't recall that either.

Q Did you ever discuss it with Mr. Swann?

A I don't think I ever saw Mr. Swann again.

Q Did you ever discuss it with anyone else?

A Could have. I don't recall anyone now.

* * *

Q Do you know how soon after this meeting between yourself, Mr. Swann, Mr. Garfield and Mr. Gottesman, that the United Dye indictment was filed in 1959?

A No, I don't, Mr. Walpin.

Q Was it a short period of time afterward?

A I really don't know.

Q How did you find out that Garfield and Roen were not indicted in the indictment?

A I don't recall that I found it out. Either I could have read it in the papers, or Mr. Gottesman could have told me. I don't recall.

Q You have no recollection?

A No.

Q Did you ever do anything else, or have any other conversation with regard to this matter, after this meeting that you have described, between yourself, Mr. Gottesman, Mr. Garfield and Mr. Swann?

A I might have, Mr. Walpin, but I don't know when this meeting was. I certainly might have talked with Mr. Garfield and Mr. Gottesman.

Q What is your best recollection?

A I don't know when the Swann meeting was, with relation to all of this. My best recollection is I probably would have.

Q I 1, what does the date of the meeting between yourself, Mr. Garfield, Mr. Swann and Mr. Gottesman have to do with whether you recall talking to anybody about this matter, after that meeting?

A Well, if, let's say, he went before the Grand Jury the next day, or the next couple of days, and the indictment naming Garfield and Roen as co-conspirators and not defendants came down the day after that, or something like that, there might not have been occasion for us to talk about this particular matter further. If there was a month's delay, or two or three months, - whatever it was - we might have talked about it, and probably would have talked about it again.

Q Is it your statement then that, if the indictment came down within a few days, let's say less than a week, after Mr. Swann's appearance before the Grand Jury, - then is it your recollection that there was no further conversation on this matter?

A No, I don't have a recollection, Mr. Walpin, one way or the other. I saw Mr. Garfield after that on other things, on other matters of his, and it certainly could have been mentioned. I saw Mr. Gottesman after that. It could have been mentioned.

* * *

Q Mr. Cohn, is there anything that you can recall of the conversation that occurred at this meeting between yourself, Mr. Garfield, Mr. Swann, Mr. Gottesman, other than the general items you have stated?

A Gee, I don't recall anything else.

Q You have no idea of any facts that were discussed at the meeting?

A Well, there was some discussion of the facts of the case.

Q What were the facts of the case, as you recall them?

A As I've outlined to you here: the question of whether or not they had a right to sell under an exemption, or whether the stock, -- or whether the stock required registration, and whether there was wilfulness on Mr. Garfield and Mr. Roen's part in selling the stock, and whether they had acted on the advice of Mr. Swann.

Q Mr. Cohn, I didn't ask you what was discussed at the meeting with regard to the issues. I asked you what was discussed at the meeting with regard to the facts of the case.

A Gee, I don't remember. There might have been a discussion about that, Mr. Walpin. Do you mean by "facts" as distinguished from "issues"?

Q Well, there is a distinction, isn't there?

A Sometimes yes, sometimes no.

Q Well, I think you understand the difference.

A I don't quite understand what you've been getting at here. If you could amplify, I'll try to.

Q Mr. Cohn, the issues are the consequences of the facts. You know what facts are, and the issues determined. Now, I've asked you now, and I've asked you before: what facts were discussed at this meeting?

A Under that definition, I can answer that. The facts at

the meeting, as I recall, as I've already told you, -- the fact, or the facts, however you want to put it, -- Mr. Garfield and Mr. Roen had sold stock in this United Dye Company, which stock they had submitted in return for properties which they had put in there, and this seemed to be the fact. And the fact was, having sold it, did this constitute the issue, -- as you'd put it, I suppose, -- then was, -- did this constitute a violation of law, or didn't it? Mr. Swann's thesis was, it didn't. And so was Mr. Gottesman's thesis.

Q Was Guterma mentioned at this meeting?

A Was Guterma mentioned?

Q Yes.

A Could very well have been. I have no specific recollection. I think Guterma was the head of the United Dye Company at the time that this transaction for the exchange of the property for the stock was arranged. It's very -- probably he was mentioned.

Q Who mentioned him?

A I don't know.

Q What was said about him?

A I don't recall that either.

Q Was there any discussion as to how this merger had taken place?

A There might have been, Mr. Walpin. If there were, it doesn't stick in my mind now.

Q Was the name, Pasternak, mentioned?

A I don't recall it being mentioned. It might have been.

Q Were the -- I'm sorry, did you have something --

A No, I was going to say I suppose anybody connected with the case could have been mentioned.

Q I'm asking for your recollection as to whether there was any conversation on those subjects.

A I don't have any specific recollection.

Q Do you recall whether the properties involved were described?

A I believe so. I believe it involved a pipeline, pipeline company.

Q Do you recall what was said about the pipeline company?

A Excuse me, I do -- I do recall something. I believe it was a pipeline that Mr. -- I think Mr. Garfield and Mr. Gottesman pointed out -- had come from a -- been bought from the Murchisons or something, that the Murchisons had offered more money for it and it was actually a very

valuable property and they'd done a favor to the company by putting this property in there, that it was a very valuable property and was making, or should make, or should have made, a great deal of money. I believe that was discussed.

Q Can you tell us what was said about the income of the company?

A I don't recall that.

Q You don't recall any conversation with regard to what the income of the company was or would be?

A No.

Q Do you recall any discussion about the value of the property?

A Well, Mr. Garfield and Mr. Gottesman and, I guess, Mr. Swann thought it was very valuable.

Q Did they say why they thought it was valuable?

A I suppose because of its income-producing, present or potential.

Q Did you ask them what the income was?

A No, I didn't ask them much.

Q Did they say what the income was?

A They might have. If they did, three or four years ago, I don't recall now. I didn't own any of the stock.

Q Do you recall whether they said there was a deficit in the running of the company?

A This is of the pipeline company?

Q Pipeline.

A No, I don't. They thought highly of it.

Q But you don't recall what they said about why they thought highly of it?

A I assume the usual reasons. I believe they said they had a higher offer from somebody else or something like that.

Q Did they say who they had the higher offer from?

A The Murchisons name was mentioned in some connection.

Q In what way was the Murchison name mentioned?

A I don't recall, Mr. Walpin.

Q You don't recall how the Murchisons name came into it?

A That they wanted to buy or something like that, I don't know.

Q Was Dardi's name mentioned?

A Not that I recall.

* * * *

Q Was Lebrich's name mentioned?

A Not that I recall. Might have been.
I have no present recollection of it.

Q Was Barkley's name mentioned?

A I just don't have any recollection of the
specific names that were mentioned.

Q Was Leonard Glass's name mentioned?

A Leonard Glass?

Q Yes.

A I don't believe so. Might have been.

Q Was any other United States Attorney or
Assistant United States Attorney's name mentioned?

A No. If anyone were, I imagine it would
have been Glass.

40. The aforesaid testimony of said defendant ROY M. COHN,
as he then and there well knew and believed, was untrue in that
in 1959, the alleged meeting and conversation, as described by
said defendant ROY M. COHN in his above quoted testimony,
between MURRAY E. GOTTESMAN, Samuel S. Garfield and
Allen K. Swann, in said defendant ROY M. COHN's presence, never
occurred.

(Title 18, United States Code, Section 1621.)

COUNT FIVE

The Grand Jury further charges:

41. On or about the 25th day of June, 1962, in the Southern District of New York, ROY M. COHN, the defendant, unlawfully, wilfully, knowingly and corruptly, and by threats, did endeavor to influence, intimidate and impede one Allard Roen, who was to the knowledge of said defendant a witness and would be called before the United States Grand Jury duly impaneled and sworn in the District Court of the United States for the Southern District of New York in a proceeding and investigation then pending presentation to the said Grand Jury, as described in paragraph 14 of this indictment, and did endeavor to influence, obstruct and impede the due administration of justice in the aforesaid proceeding in that said defendant unlawfully, wilfully, knowingly and corruptly, and by threats, did endeavor to alter and suppress the material, relevant and necessary testimony of said Allard Roen in the aforesaid proceeding and investigation by causing and procuring one Eli Boyer to communicate threats from said defendant to the said Allard Roen.

(Title 18, Section 1503, United States Code.)

COUNT SIX

The Grand Jury further charges:

42. On or about the 26th day of June, 1962, in the Southern District of New York, ROY M. COHN,

the defendant, unlawfully, wilfully, knowingly and corruptly, and by threats, did endeavor to influence, intimidate and impede one Allard Roen, who was to the knowledge of said defendant a witness and would be called before the United States Grand Jury duly impaneled and sworn in the District Court of the United States for the Southern District of New York in a proceeding and investigation then pending presentation to the said Grand Jury, as described in paragraph 14 of this indictment, and did endeavor to influence, obstruct and impede the due administration of justice in the aforesaid proceeding in that said defendant unlawfully, wilfully, knowingly and corruptly, and by threats, did endeavor to alter and suppress the material, relevant and necessary testimony of one Allard Roen in the aforesaid proceeding and investigation by causing and procuring one William D. Fugazy to communicate threats from said defendant to the said Allard Roen.

(Title 18, Section 1503, United States Code.)

COUNT SEVEN

The Grand Jury further charges:

43. On or about the 16th and 17th days of July, 1962, in the Southern District of New York, ROY M. COHN, the defendant, unlawfully, wilfully, knowingly and corruptly, and by threats, did influence, intimidate and impede and did endeavor to influence, intimidate and impede one

Samuel S. Garfield who was to the knowledge of said defendant a witness and would be called before the United States Grand Jury duly impaneled and sworn in the District Court of the United States for the Southern District of New York in a proceeding and investigation then pending presentation to the aforesaid Grand Jury, as described in paragraph 14 of this indictment, and did influence, obstruct and impede and did endeavor to influence, obstruct and impede the due administration of justice in the aforesaid proceeding and investigation, in that said defendant unlawfully, wilfully, knowingly and corruptly, and by threats, did endeavor to alter, suppress and nullify the material, relevant and necessary testimony of said Samuel S. Garfield in the aforesaid proceeding and investigation, by causing and procuring said Samuel S. Garfield to make a false statement to one John Kiser, which false statement was inconsistent with and contradictory to the truthful testimony of Samuel S. Garfield before said Grand Jury.

(Title 18, Section 1503, United States Code.)

COUNT EIGHT

The Grand Jury further charges:

44. On or about the 7th day of July, 1962, in the Southern District of New York, ROY M. COHN, the defendant, unlawfully, wilfully, knowingly and corruptly did influence, intimidate and impede and

did endeavor to influence, intimidate and impede one William D. Fugazy who was to the knowledge of said defendant a witness and would be called before the United States Grand Jury duly impaneled and sworn in the United States District Court for the Southern District of New York in a proceeding and investigation then pending presentation to the said Grand Jury, as described in paragraph 14 of this indictment, and did influence, obstruct and impede and did endeavor to influence, obstruct and impede the due administration of justice in the aforesaid proceeding, in that said defendant unlawfully, wilfully and corruptly did cause and did endeavor to cause one William D. Fugazy to give false testimony, which said defendant knew to be false, and did suppress and alter and did endeavor to suppress and alter the material, relevant and necessary testimony of said William D. Fugazy before said Grand Jury.

(Title 18, Section 1503, United States Code.)

COUNT NINE

45. The Grand Jury repeats and realleges the allegations of paragraph fourteen of this indictment as though fully set forth herein.

46. It was material to the Grand Jury investigation described in paragraph 14 of this indictment to ascertain whether a meeting occurred during 1959 in which Samuel S. Garfield and Allen K. Swann discussed with MURRAY E. GOTTESMAN, in the

presence of M. Cunn, the involvement of Samuel S. Garfield and Allard Roen in the subject matter of the Grand Jury investigation described in paragraph three of this indictment.

47. On or about the 8th day of June, 1962, and the 18th day of June, 1962, MURRAY E. GOTTESMAN, the defendant, having duly taken an oath before the competent tribunal described in paragraph fourteen of this indictment that he would testify truly, and having been duly advised of the investigation then and there being conducted, unlawfully, wilfully, knowingly and contrary to such oath did testify falsely before said Grand Jury with respect to the aforesaid material matters as follows:

June 8, 1962

Q Now, Mr. Gottesman, what was the name of the stock involved in this case that you called Mr. Robson on?

A I don't recollect the name of the stock, but I can tell you who the individuals were.

Q Will you state what the names of the individuals were.

A It was a Mr. Swann, who is an attorney, who wanted to go before the Grand Jury; there was a -- and a Mr. Goldfield or Garfield - I believe it was Garfield.

Q And had you spoken to -- are those the names involved?

A That's right.

Q Had you spoken to Mr. Garfield or Mr. Swann? A Yes.

Q Did you speak to both of them? A Yes.

Q Where did you speak to them?
A At the Plaza Hotel.

Q When was this? A I couldn't tell you. I would have to check. I have no recollection. I don't -- that wasn't the only case I've had in the years that I've been practicing law.

Q Did you have an appointment to go see them? A Yes.

Q Did you call them to make the appointment? A They may have called me - I have no recollection.

Q And who else -- where in the Plaza Hotel was this? A It was in a room, which I presume was Mr. Garfield's room.

Q Do you know what size room it was?
A Large room. As a matter of fact, it was a suite.

Q Do you recall the date when this occurred? A I do not.

Q Would your diary show when you went up? A It may.

Q Do you know what year this was?
A I couldn't say.

Q Now, who else was present?
A Mr. Swann, Mr. Garfield, and I believe Mr. Cohn was present.

Q Do you know who had referred Mr. Garfield -- strike that. Who called you to arrange -- you don't recall who called? A No, I don't.

Q Whom did you speak to on the phone when the appointment was arranged? A I don't recollect. As I say, I may have it in my diary.

Q You may have what in your diary, sir? I'm sorry. A I may have a notation in my diary as to who called me, or who I called, where the appointment was. Where and what, I don't know. If you give me a date as of within and about, I could check it.

* * * *

Q Now, do you know how come Garfield or Swann came to you? A Yes.

Q How was it? Would you tell the Jury.
A I was called by Saxe, Bacon & O'Shea.

Q That's a firm. A That's right.

Q Who called you? A I don't recollect whether it was Mr. Bolan or Mr. Cohn or Mr. -- or Mr. Foley called me or someone called me. Now, it may be that I have a notation. I can't say. I was called and I was asked with reference to this matter, whether I would be interested, and I said I might be. The question was asked whether I had the time for it and I said I might be available. That's the normal procedure.

Q Now, what did they tell you about what the matter related to? A Related to a question of two individuals who, they felt, may be charged with certain illegal activities.

Q Involving what? A Involving a certain stock transfer.

Q And what was the rest of the conversation with Mr. Bolan or Mr. Cohn? A That was the sum and substance of it.

Q And how long after this conversation did you speak on the phone with either Garfield or Swann? A I couldn't tell you. It may have been an hour, it may have been a day, it may have been two days. You're asking me to pinpoint something that I can't tell you.

Q To the best of your recollection. A Well, I'm giving you the best of my recollection. If I, perhaps, had gone back and been able to look at my diaries, if you'd advised me what it was, I'd be able to refresh it. As of this moment, I don't know. I haven't looked at anything.

Q And when you went up to the Hotel Pierre, did you go up -- A Is that what it was, the Pierre? I think I said Plaza. It might have been the Pierre, I don't know. Maybe I'm mistaken.

Q I thought you said Pierre. A I thought I said Plaza. It may be Pierre. My records may show it was the Pierre.

Q When you went to whatever hotel it was, --
A Correct.

Q -- did you go with anyone? A No, I went alone.

Q And who was up there, again? A When I initially came, Mr. Garfield was there, if my memory serves me. Then Mr. Swann came in, and I believe -- I'm not sure -- I believe Mr. Cohn came in.

* * *

Q You were retained as counsel? A Yes, I was. At that point I was counsel.

Q Do you have today a signed retainer?
A I have no signed retainer.

Q Who retained you? A Right then and there, both gentlemen spoke to me as -- in my capacity as an attorney.

* * * *

Q Were you ever retained by them?
A Was I ever retained by them?

Q Yes. A I was retained by them to the extent that at that point I discussed the matter with them. I went down in my capacity as an attorney to discuss the case with Mr. Robson. I would say that's a retainer.

Q Mr. Gottesman, how long did this meeting at the hotel last? A I would say several hours, an hour or maybe several hours - I have no recollection.

Q Between an hour and three hours, is that your best recollection? A I would say about an hour to two or three hours, I don't know.

Q And was Mr. Cohn there the entire time?
A I'm frankly trying to recollect. I don't recollect just how long he was there or whether he was there. I believe he was there. I know he was not there initially when we started. Now, when -- whether he came in during the course of the conversation, I can't say. I have a vague recollection of Mr. Cohn being there, but whether that's a fact, I couldn't say. How long are we going back? I don't know. When was this?

Q Now, is this the same matter that you were questioned about by the FBI? A I believe so, yes.

Q Now, after this conversation that you say occurred in this hotel, did you talk to or see Morton Robson? A Yes.

Q And about how long afterwards, after this conversation? A Might have been the next day, might have been two days later - whenever he had time available. I don't remember.

Q And was this the first time that you had talked to Morton Robson about this matter? A Correct.

* * * *

Q How do you know Mr. Svann testified before the Grand Jury? A I was advised of such a thing.

Q By whom? A I believe Mr. Swann told me he testified, if I remember correctly. I may be mistaken, but I know someone advised me that Mr. Swann had testified.

Q Now, how many times have you spoken to Mr. Swann? A Just once, I believe.

Q Was that at the hotel? A That was at the hotel.

Q Then Mr. Swann did not inform you of the fact that he had testified before the Grand Jury. A I don't believe it was Mr. Swann who informed me.

Q Then who did inform you? A As I say, I don't recall, I don't recollect, but someone informed me that he had testified before the Grand Jury.

Q How many times have you seen Mr. Garfield? A I believe twice.

Q Second time, was it before or after the time you've already testified about? A First time I met Mr. Garfield was at the hotel. I'd never known Mr. Garfield prior to that occasion.

Q When was the second time you met him? A I don't remember. I'm trying to recollect. I believe I met him twice. It may have been I only met him once, but I have a vague recollection of having met him a second time. I don't remember where or when or under what circumstances.

June 18, 1962

Q Now, Mr. Gottesman, do you recall that the last time you were here you testified with regard to a time you met with Samuel Garfield and Allen Swann. A Yes, sir.

Q And do you recall about when that was? A Couldn't right now. If you refresh my recollection, I'd be glad to see if it does. I believe it was - must have been during either a summer or early fall or some such because I remember Mr. Garfield, if I remember correctly, was in his shirt sleeves.

Q Do you recall in relation to when the indictment in 1959 involving United Dye came down - when in relation to that indictment - this meeting with Garfield and Swann took place? A I know it was some time before that. I couldn't tell you exactly when.

Q About how long before? A I couldn't say.

Q Within a few days or more? A Oh, I think it was much longer than that.

Q. What would you say was the shortest period of time before the indictment came down? A I wouldn't attempt to guess, Mr. Walpin, because it wasn't - it wasn't that important to stick in my mind. When you have completed something, that's it.

Q Do you recall in relation to your phone conversation with Mr. Robson, when this meeting with Garfield and Swann took place? A I presume that shortly after this meeting with Garfield and Swann I must have called Mr. Robson and gone over to see him. I don't remember exactly how much time elapsed, but certainly not much time could have elapsed, because it must have been almost immediately.

Q And how long was this conversation you had with Garfield and Swann, and I believe you said Roy Cohn was there? A I said I have a vague recollection of his having come in.

Q Being there a portion of the time? A A portion of the time, I believe so.

Q About how long was this conversation? A I would say it went on for several hours. I remember Mr. Garfield, I believe, ordered tea and asked me if I wanted to have something to eat and I said no. It must have been, when the tea eventually came up, it must have been a fairly lengthy conversation.

Q Did you make any notes of this? A No, I didn't.

Q Did you make any memorandum subsequently? A I did not.

Q And I take it that there is nothing in your files which deals with this conversation that you had there? A Nothing whatsoever. It's not unusual. That's my usual procedure.

Q Do you recall how long before you went up to that hotel room was the appointment made for you to go up there? A I couldn't say. I don't recollect. You are asking me to remember something which --

Q Do you recall whether it was just a day before, the same day or a substantial period of time before? A I wouldn't say it was a substantial period of time before, no.

Q Now, you recall I asked you to tell the Grand Jury the substance of the conversation that you had with Swann and Garfield and Roy Cohn. A And Roy Cohn?

Q Yes, at that meeting. A I had a conversation with Mr. Swann and Mr. Garfield. I don't remember having any conversation with Mr. Roy Cohn.

Q While Mr. Cohn was there for a portion of the time? A Well, as I said before, I have a vague recollection of his having come in but do not recollect of having any conversation. I'm certain he must have listened if he was there but I don't recollect talking with him.

Q I am sure he would have said some words even if it was just "Hallo." A He certainly did.

* * *

Q . . . Now, Mr. Gottesman, would you tell the Grand Jury the conversation that occurred at that time. A Yes. I spoke to Mr. Swann and to Mr. Garfield. They stated to me that they felt that they had had a good potential; that they had had this company which they felt was still worth many millions of dollars.

Q Excuse me; which company, sir? A Some oil company or some gas company which they had merged into this company. They felt it was still worth many millions of dollars. They felt if someone would come in and operate it properly that it would make, still make a great deal of money and be a very valuable asset to the corporation. They felt that the individual who had run it had done it improperly. They felt they had done nothing wrong. They felt the testimony or whatever evidence the government had against them was very weak; that it was taking a rumor and clothing it with the respectability of a fact.

- Mr. Swann advised me he was an attorney for the State of Indiana; that he had given certain advice to Mr. Garfield or to the individuals concerned; that he felt that he had been justified in giving the advice he gave, and he felt that he would appreciate the fact that, number one, he be permitted to go before the Grand Jury, and number two, that the powers that be - in view of the fact that there had been merely a young assistant who was in charge of this case - that the people who had had a greater knowledge of these things -- I'm sorry, I neglected to turn around -- who had a greater knowledge of these things should re-assess and re-evaluate the evidence which they had. That was the sum and substance of the conversation.

At that time I said to both Mr. Swann and Mr. Garfield that I would take it up with the individuals concerned to determine whether or not they would, number one, permit Mr. Swann to go before the Grand Jury, and number two, to re-evaluate the entire testimony.

That what I went to see Mr. Robson . . . out, to re-evaluate the entire case in view of the fact that Mr. Swann was, number one, an attorney in good standing in the State of Indiana - I believe he stated to me; my recollection isn't quite clear on that - and, number two, that Mr. Garfield had stated that this asset which had been merged, apparently, into United Dye was a good and valuable asset and worth millions, and that it was merely because of mismanagement that the asset had been permitted to lie dormant and hadn't been expanded. That was the sum and substance of our conversation.

Q In regard to what you have stated, will you tell the Grand Jury who said that, Swann or Garfield? A I believe Mr. Swann may have given me the so-called legal end of it and Mr. Garfield may have given me the evaluation of the asset which had been turned in to the corporation. I couldn't at this moment distinguish between the two of them but both were there; both took part on that conversation.

Q At that time did they inform you of anything else? A Nothing else --

Q Was there any discussion-- A -- that I can remember at this time. Was there any -- ?

Q Was there any discussion of the offense allegedly involved? A Merely that there had been a question that they - that there was intention of a stock fraud, or some such.

Q Have you ever handled any S.E.C. cases, Mr. Gottesman? A Yes.

Q And are you acquainted with the fact there are two different Acts involved? A Section 5 and Section 13, is that what you are referring to?

Q 1933 Act and 1934 Act. A That's right, and 1934 Act.

Q And are there various offenses included and encompassed in both of those Acts? A Yes.

Q Did you have any discussion with them with regard to the specific offenses? A No, I didn't.

Q Did you ask them any questions with regard to it? A Asked them as to the evaluation; whether Mr. Swann had given him any information, had given him any legal advice, and Mr. Swann said he had given him legal advice. He thought this was a perfectly proper transaction. Mr. Garfield said the asset was still a good asset; and predicated on that, I felt that that information should be brought to the attention of the authorities and it should be re-evaluated.

Q Did you discuss with them any specific offense? A No, I didn't.

Q Did you discuss with them -- strike that. Do you recall anything else you discussed with them? A I have no recollection at this time of anything.

Q Did you discuss with them the terms of the merger? A No, I did not.

Q Had you discussed with them their position in the company that was merged into the surviving company and their position, after the merger, in the surviving company? A I no doubt did.

Q Do you recall what the discussion was? A No, I do not.

Q Do you recall what they told you? A I do not.

Q Do you recall whether they were officers of the oil company or gas company or whatever they stated? A At the time that they had sold this asset? I believe that they told me they were the officers of the gas company but, as I say, I am testing my recollection and I believe they did, in substance, tell me that they had had either control or knew or had stock or holdings of this oil company or gas company which was subsequently merged into United Dye.

Q Did you discuss with them their position in the surviving corporation? A I may have.

Q What is your best recollection, Mr. Gottesman? A I have no recollection.

Q You have no recollection of discussing it with them? A I have no recollection.

Q Did you discuss with them any fraudulent misrepresentations they may have made? A I presume I must have because I certainly asked them what the basis was of this asset, and they told me that the asset was a valuable asset and, apparently, the government's contention was it was not a valuable asset.

Q And who told you that that was the government's contention? A Well, I wouldn't use the word "government". I'm using the word "government" loosely, but I understand that that's what I was advised, that that was the contention. The contention was of someone that these assets that had been sold or turned over or exchanged -- I don't recollect now how or what happened or occurred -- but those assets were valuable assets of this oil and gas company and it was merely through the mishandling of the officers of United Dye or some individual, I don't remember his name -- he had not exploited them to the best of his ability nor to the best of the ability of the company, and it was for that reason, apparently, that this asset was now looked upon, and the deal was looked upon, a little askance, put it that way.

Q Did you discuss with them what their position was in the surviving corporation after the merger? A I have no recollection whether or not I did or did not.

Q Did you discuss with them Swann's position as an attorney in this entire transaction? A I did.

Q Would you tell the Grand Jury what you discussed? A I discussed with Swann the fact that he was an attorney and he advised me that he had given them advice with reference to this matter.

Q What kind of advice had he given? A He'd given advice, I believe, if my memory serves me now, that this was a perfectly proper merger and this was a perfectly proper asset and they were turning over something that had value.

Q And that was the -- A This was Swann, an attorney, giving legal advice.

Q And was this, to your memory, the substance of the legal advice which Swann told you, or Garfield told you, had been given? A That's all I recollect at this point.

Q Do you recall any further portion of this conversation with Garfield and Swann? A I don't.

Q The conversation lasted, you stated, several hours. A I believe it was approximately several hours.

Q These are the only items you recall discussing? A Those are the only items.

Q Do you recall the name of the corporation that was merged into the surviving corporation? A Now, which are we referring to? I didn't quite get that.

Q Do you recall the name of the oil or gas company that was merged into the surviving corporation? A I don't. I have a vague recollection it may have begun with an "S" but I'm not certain just what it was.

* * *

Q Do you recall what time of day this meeting was with Garfield and Swann? A Sometime in the early afternoon, I believe.

Q Did you have any discussions with Garfield and Swann with regard to possible retainer by them? A Yes, we discussed the fact that I might represent them, in the event there was an indictment.

Q What was the discussion? A Discussion was, we were discussing -- we would discuss the question of the fee and retainer subsequent to this situation.

Q Did you ever have such a discussion with them? A I did not.

Q Did you inform them of what you were going to do when you left them? A Yes.

Q What did you tell them? A I told them I was going to go down and discuss it with the U.S. Attorney, present the facts, ask for reconsideration, ask to have Mr. Swann go before the Grand Jury, to determine whether or not they would or would not indict him on that basis.

Q Was Mr. Swann willing to appear before the Grand Jury? A Yes.

48. The aforesaid testimony of said defendant MURRAY E. GOTTESMAN as he then and there well knew and believed, was untrue in that in 1959 the alleged meeting and conversation, as described by said defendant MURRAY E. GOTTESMAN in his above quoted testimony, between him and Samuel S.J. Garfield and Allen K. Swann, in ROY M. COHN's presence, never occurred.

(Title 18, Section 1621, United States Code.)

COUNT TEN

49. On July 31, 1963, the Grand Jurors of the United States of America, duly impaneled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District in proceedings in which a law of the United States authorizes an oath to be administered, commenced and conducted a proceeding and investigation which continued before said Grand Jurors up to and including August 2, 1963, pertaining to possible violations of Title 18, United States Code, Sections 371, 1621 and 1503, and any other Federal criminal statutes, for the purpose of determining whether any persons had engaged in a conspiracy to influence and obstruct corruptly the due administration of justice in the Grand Jury investigation described in paragraph fourteen of this indictment and had committed perjury therein.

50. It was material to the Grand Jury investigation described in paragraph 49 of this indictment to ascertain whether a meeting occurred during 1959 in which Samuel S. Garfield and Allen K. Swann discussed with MURRAY E. GOTTESMAN, in the presence of ROY M. COHN, the involvement of Samuel S. Garfield and Allard Roen in the subject matter of the Grand Jury investigation described in paragraph 3 of this indictment.

51. On or about the 31st day of July, 1963, MURRAY E. GOTTESMAN, the defendant, having duly taken an oath before the competent tribunal described in paragraph 49 of this indictment that he would testify truly, and having been duly advised of the investigation then and there being conducted, unlawfully, wilfully, knowingly and contrary to such oath did testify falsely before said Grand Jury with respect to the aforesaid material matters as follows:

A . . . Mr. Garfield was in his shirt sleeves. He was very tanned. I told you afterwards Mr. Swann came in. He was in a dark suit. I believe it was a blue suit. I never saw the gentleman after that one time. Certainly that's the time; that was the description of the gentleman I have: short gentleman, I would say five-seven, dark, baldish, in fact, perhaps completely bald except for a slight fringe; very dark, very sunburned, his sleeves rolled up. I remember it very distinctly, because I was very much surprised. He had a two-room suite; it was painted white. I remember we made a right turn coming to the elevator, -

Q Who's "we"? A Rhetorical - when I use that term, I mean myself.

Q Did you come there with anybody else? A No, sir. I remember coming down the hall; I remember it was summer. If my memory doesn't fail me, I remember they had white shuttered doors to each apartment, to keep it cool. It was a very narrow hall. My memory is very good on that. Contiguous to it, on the right, there was a hall. There was another room to the right, a bedroom. I never had occasion to go into it. There was a settee, there was a table, a little coffee table, there was, if

I remember correctly, on the opposite wall, there might have been a mirror on a mantelpiece. I'm not sure now.

...

* * * *

Q Mr. Gottesman, you say you came in with no one? A No, I came in myself.

Q Did anybody else arrive after you got there? A I told you Mr. Cohn, but Mr. Swann wasn't there initially, and he came in.

Q What was the chronology? A I told you; if I remember correctly, I thought - and here, once again, I go back on my memory - and I thought, I think this is what I testified last time, or I think Mr. Swann came first and Mr. Cohn came, and Mr. Cohn sat on the settee and this thing was served right in front of him on this coffee table.

Q What happened when Mr. Cohn walked in? A What do you mean, what happened?

Q Did anybody introduce him or say anything to him or shake hands? A He said Hello. He knew the people. I knew the people. Who was I to be introduced to? Mr. Cohn? I knew Mr. Cohn. I know him for many years.

Q Nobody introduced Mr. Cohn? A To whom?

Q To anybody there? A Well, Mr. Cohn knew Mr. Garfield and I presumed he knew Mr. Swann. What was the introductions for?

Q Nobody introduced him to Mr. Swann? A Not to my recollection.

Q Mr. Cohn just walked in, everybody remained seated. A Everybody said hello.

Q And just said hello and then did nothing more. A Well, we continued discussion.

Q Nobody shook hands? A Now, that's something I couldn't tell you, Mr. Walpin, whether we shook hands.

Q Did you shake hands with Mr. Swann when he came in? A When I was introduced to him, why, certainly.

Q Well, did Mr. Cohn shake hands with Mr. Swann? A I don't remember that. I couldn't tell you. I would do it as general amenity when I meet a person to say hello to him, I certainly shook hands with him. It's a common thing to do. It's a decent thing to do.

* * * *

Q And you are unable to say what time you met with Garfield and Swann, if you met with them? A I believe it was after lunch. I may be wrong, but, as I say to you, I believe it was after lunch for the simple reason that I believe that I was asked if I wanted anything and I said I didn't care to, and then I believe tea was called for and brought up. Now, certainly, that should have been after lunch because if it was prior, certainly I would have been asked to stay for lunch considering the general amenities of the thing and, therefore, I would say to you it had to be in the afternoon because of the tea incident.

* * * *

Q Mr. Gottesman, what time did you leave Garfield and Swann, if you met with them? A Certainly during the afternoon, if it was an afternoon meeting, I didn't stay too long.

Q How long did you stay? A Oh, half an hour or so.

Q And what was the smallest amount you would say you stayed with them? A I could say about an hour; --

Q And what's the longest? A-- perhaps a little longer.

Q What's the longest amount of time you would say you stayed with them?

A Mr. Walpin, I couldn't say.

Q Was it more than two hours? Was it more than three hours? A I certainly couldn't answer. It certainly wasn't three hours.

Q Was it less than three hours? A I couldn't tell you. No way of my recalling whether it was one hour or two hours.

Q What time did you leave them? A I know the sun was still out when I walked out.

52. The aforesaid testimony of said defendant MURRAY E. GOTTESMAN as he then and there well knew and believed, was untrue in that in 1959 the alleged meeting and conversation, as described by said defendant MURRAY E. GOTTESMAN in his above quoted testimony, between him and Samuel S. Garfield and Allen K. Swann, in ROY M. COHN's presence, never occurred.

(Title 18, Section 1621, United States Code.)

FOREMAN

ROBERT M. MORGENTHAU
United States Attorney